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EXAMINER	
HALL, ARTHUR O	

ART UNIT	PAPER NUMBER
3714	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/812,333	GIOBBI, JOHN J.	
	Examiner	Art Unit	
	ARTHUR O. HALL	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *55-60,71-74 and 93-96* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *55-60,71-74 and 93-96* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Examiner acknowledges applicant's amendment of claims 55-59 and 71-74, cancellation of claims 1-54 previously and claims 61-70 and 75-92 in this office action, and addition of claims 93-96 in the Response dated 10/27/2008 directed to the Non-final Office Action dated 6/26/2008. Claims 55-60, 71-74 and 93-96 are pending in the application and subject to examination as part of this office action.

Examiner acknowledges that applicant's arguments in the Response dated 10/27/2008 directed to the rejection set forth under 35 U.S.C. 102(e) in the Non-final Office Action dated 6/26/2008 are deemed moot in light of a new ground of rejection under 35 U.S.C. 103(a) as set forth below in view of applicant's amendments, in view of information submitted in an information disclosure statement filed on 3/20/2004, 6/22/2006 or 12/31/2007 before the close of prosecution, and in view of applicant's arguments.

Examiner brings to applicant's attention that the oath or declaration does not contain a claim to benefit of an earlier filing date under 35 U.S.C. 120, and suggests that applicant review MPEP 602 Original Oath or Declaration and 37 CFR 1.63(a-d) to ensure proper compliance, even though applicant has amended the specification to claim benefit of Application No. 09/778,351, now US Patent 6,749,510.

Examiner acknowledges applicant's amendments directed to Examiners objection of claims 55, 56, 58, 59, 64, 67, 73, 82 and 83 with respect to claims 61, 66, 68, 71, 76, 81 and 86; 57, 62-63 and 77; 90; 84 and 91; 65, 69, 75, 79, 85 and 92; 70 and 80; 74; 88; and 89 as being substantial duplicates thereof as set forth in the Non-final Office Action dated 6/26/2008, which obviate the objection to the claim. Therefore, Examiner withdraws further objection to the claims. However, Examiner sets forth new grounds of objection to claims 95 and 96 necessitated by amendment as being improperly dependent from claims that are of a different statutory category of invention.

Examiner acknowledges applicant's amendments directed to Examiners rejection of claims 55-92 under the provisional grounds of nonstatutory Obviousness-type Double Patenting, which overcome the rejection of the claims. Therefore, Examiner withdraws further rejection of the claims.

Claim Objections

Claim 95 is objected to because of the following informalities: Claim 95 recites "The **gaming system** of Claim 73;" however, claim 73 recites "The **method** of Claim 71." The method directed to a process and the gaming system directed to an apparatus are different statutory categories of invention, thus, claim 95 cannot depend from claim 73 as recited. Appropriate correction is required. However, Examiner will examine claim 95 as if applicant meant for the claim to recite "The method of Claim 73" in order to further prosecution of this application.

Claim 96 is objected to because of the following informalities: Claim 96 recites "The **gaming system** of Claim 74;" however, claim 74 recites "The **method** of Claim 71." The method directed to a process and the gaming system directed to an apparatus are different statutory categories of invention, thus, claim 96 cannot depend from claim 74 as recited. Appropriate correction is required. However, Examiner will examine claim 96 as if applicant meant for the claim to recite "The method of Claim 74" in order to further prosecution of this application.

Claim Rejections - 35 USC § 103

Examiner sets forth new grounds of rejection under 35 U.S.C. § 103(a) with respect to amended or new features as described below because each of the features of applicants claimed invention as amended or newly added is unpatentable or obvious over the prior art.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 55, 57-60, 71-74 and 93-96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiltshire et al. (US Patent 6,409,602; hereinafter Wiltshire) in view of Dunn (US Patent 6,089,975). Features are described by figures with reference characters where necessary for clarity.

Regarding claim 55, Wiltshire teaches

a centralized gaming system (column 3, lines 61-66 and Fig. 1A and 1D, 100, Wiltshire; a computer gaming system is disclosed), comprises:

a central server system storing a plurality of games of chance (column 4, lines 34-42 and Fig. 1B, 110 and 112, Wiltshire; a server/host computer or central server system stores plural game programs); and

at least one remote display terminal linked to the central server system, the at least one remote display terminal including a display (column 3, line 66 to column 4, line 3 and Fig. 1A, 120 and 140, Wiltshire; each of the plural client/terminal computers are in electrical communication with a separate display device),

wherein in response to one of the games being selected for play according to the game selection indicia displayed at one of the at least one remote display terminal, software for the selected game is executed to randomly select an outcome (column 8, lines 56-65 and column 10, line 62 to column 11, line 15, Wiltshire; the game program for a slot machine game selected by the player causes reels to spin and provide a randomly selected outcome after the slot machine game is selected by the player via a displayed slot machine image or game selection indicia).

However, Wiltshire does not appear to teach displaying plural game selection indicia corresponding to plural games after the display terminal is idle for a

predetermined period of time, and displaying the selected game until the display terminal has been idle for a predetermined period of time, wherein the outcome is disposed on the display of the display terminal as claimed. Therefore, attention is directed to Dunn, which teaches

in response to the at least one remote display terminal being idle for a predetermined period of time, the display displaying a plurality of game selection indicia corresponding to the plurality of games (column 5, lines 46-67, Dunn; video images for promotional advertisements or informational presentations are displayed on game display screens after the gaming machine interfaced with a display is inactive or idle for a period of non-play of the gaming machine, and it would have been obvious at the time of invention to try an implementation in which the images of the promotional advertisements or informational presentations in Dunn are integrated with the displayed slot machine image or other game images in Wiltshire (column 8, lines 42-55, Wiltshire) so as to display the slot machine image or other game images associated with reel slot machine game play or other game play for selection by the player since one having ordinary skill in the art would have understood that promotional advertisements or informational presentations, which incorporate images for selection by the game player for accessing promotions, may also incorporate other selectable images for game play in order to give the game player the option to re-activate game play after shopping during the period in which the game machine/display is inactive); and

the outcome is visually represented on the display of the one remote display terminal, the display of the one remote display terminal displaying the selected game until the one remote display terminal has been idle for the predetermined period of time (column 5, lines 61-67, Dunn; video images for promotional advertisements or informational presentations are displayed on game display screens until a rest period of time in which the video screen display is idle has elapsed, and it would have been obvious at the time of invention to try an implementation in which the selected slot machine game in Wiltshire (column 11, lines 16-30, Wiltshire) is displayed for an idle

period of the video display screen in a similar manner as the promotional advertisements or informational presentations in Dunn since one having ordinary skill in the art would have understood that a player would need visual access to game data selected by the player when viewing promotional advertisements or informational presentations in order to recall the status of the last game play so as to decide whether or not to continue playing).

Dunn suggests that a device that provides a special method of displaying selected promotional advertisements or informational presentations, similar to game images, on a video display screen during periods of time in which the display screen and gaming device are not being actively operated in game play by the player will provide the player with opportunities to participate in other activities associated with game play and to monitor game play during inactive periods (column 1, lines 18-67, Dunn).

Thus, it would have been obvious to a person having ordinary skill in the art at the time the applicant's invention was made to modify Wiltshire in view of the teachings of Dunn for the purpose of providing the gaming device of Wiltshire having a server/host computer, client/terminal computers interconnected with displays and game programs that execute games on the client/terminal computers that are upgradeable to and integrable with the promotional advertisements or informational presentations or game image display during game machine and display screen idle periods of inactivity and selected promotional advertisements or informational presentations or selected game display until the game machine and display screen have been idle for period of time as disclosed by Dunn in order to provide the player with opportunities to participate in other

activities associated with game play and to monitor game play during inactive periods by providing a special method of displaying selected promotional advertisements or informational presentations, similar to game images, on a video display screen during periods of time in which the display screen and gaming device are not being actively operated in game play by the player.

Regarding claim 71, the scope of the claim for the method of operating the system is inherent with respect to claim 55 above in view of the structure disclosed by Wiltshire and Dunn since the method is the normal and logical manner by which the system is employed.

Regarding claim 57, in response to one of the games being selected for play at the one remote display terminal, at least some software for the selected game is executed at the central server system (column 8, lines 56-65, Wiltshire; a game program is at least partially executed from the server/host computer so as to update the state of the game and modify the game image on the display screen).

Regarding claim 58, the software includes a random number generator for randomly selecting the outcome (column 11, lines 1-15, Wiltshire; a video slot machine uses a random number generator to randomly select a game outcome after the reels stop spinning).

Regarding claim 59, the at least one remote display terminal includes upper and lower video displays, the upper video display depicting billboard indicia, the lower display visually representing the outcome (column 3, lines 57-61, column 4, lines 10-14 and Fig. 1, 14 and 16, Dunn; a lower video display screen or lower display displays game outcomes for card or slot reel games, and a display above the lower video display

screen or an upper display displays a payout table, wherein the touch screen display for a slot reels or lower display and monitor or upper display as disclosed in Wiltshire (column 4, lines 21-29, Wiltshire) are similar upper and lower displays therewith).

Regarding claim 60, the upper display is a flat panel display selected from a group consisting of a liquid crystal display (LCD), plasma display, field emission display, digital micromirror display (DMD), dot matrix display, and vacuum florescent display (VFD) (column 4, lines 4-21, Wiltshire; an LCD display is disclosed, and all other features are obvious variants thereof).

Regarding claim 93, the at least some software executed at the one remote display terminal is audiovisual software for visually representing the outcome on the display of the one of the display terminals (column 4, lines 49-67, Dunn; video presentations or other game images or outcomes as disclosed by Wiltshire are displayed using audiovisual software on a display screen).

Regarding claim 94, the at least some software executed at the central server system is game play software for randomly selecting an outcome (column 11, lines 1-15, Wiltshire; the server/host computer causes the game program to randomly select an outcome in a reel slot machine game).

Regarding claims 72, 74 and 95-96, the scope of the claims for the method of operating the system is inherent with respect to claims 58, 57 and 93-94, respectively, above in view of the structure disclosed by Wiltshire and Dunn since the method is the normal and logical manner by which the system is employed.

Claims 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiltshire in view of Dunn, and further in view of Thacher et al. (US Patent 5,917,725;

hereinafter Thacher). Features are described by figures with reference characters where necessary for clarity.

Wiltshire alone or in combination with Dunn teaches features of the claimed invention as described above.

However, Wiltshire alone or in combination with Dunn does not appear to teach downloading software for a selected game from a server to a display terminal and executing the software at the display terminal after the game is selected for play at the display terminal as claimed. Therefore, attention is directed to Thacher, which teaches

Regarding claim 56, in response to one of the games being selected for play at the one remote display terminal, at least some software for the selected game is downloaded from the central server system to the one remote display terminal and is selectively executed at the one remote display terminal (column 9, lines 46-64, column 10, line 59 to column 11, line 2 and Fig. 2, 6 and 13, Thacher; games are downloaded from a regional computer or central server system to the RAM or memory of a remote central computer for execution on the remote central computer after the specific game is selected for game play at the remote central computer by the player).

Thacher suggests that a device that provides large scale tournament play, which has diverse player locations and different types of games being played, with secure and reliable score allocation and prize awarding in a single tournament over a network of interconnected gaming machines will resolve the problems of manual entry of scores that allows for possible cheating, improper determination of which player receives prize

awards and tracking the identity of a player who is signed up for game play (column 1, line 18 to column 2, line 10, Thacher).

Thus, it would have been obvious to a person having ordinary skill in the art at the time the applicant's invention was made to modify Wiltshire in view of the teachings of Dunn, and further in view of the teachings of Thacher for the purpose of upgrading the server/host computer, client/terminal computers interconnected with displays, and game programs that execute games on the client/terminal computers as disclosed by Wiltshire alone or in combination with Dunn to downloading software for a selected game from a server to a display terminal and executing the software at the display terminal after the game is selected for play at the display terminal as disclosed by Thacher in order to resolve the problems of manual entry of scores that allows for possible cheating, improper determination of which player receives prize awards and tracking the identity of a player who is signed up for game play by providing large scale tournament play, which has diverse player locations and different types of games being played, with secure and reliable score allocation and prize awarding in a single tournament over a network of interconnected gaming machines.

Regarding claim 73, the scope of the claim for the method of operating the system is inherent with respect to claim 56 above in view of the structure disclosed by Thacher since the method is the normal and logical manner by which the system is employed.

Response to Arguments

Applicant's arguments filed in the Response dated 10/27/2008 directed to the Examiners' rejection under 35 U.S.C. § 102(e) have been considered fully and are moot in light of a new ground of rejection under 35 U.S.C. 103(a) as set forth above in view of applicant's amendments, in view of information submitted in an information disclosure statement filed on 3/20/2004, 6/22/2006 or 12/31/2007 before the close of prosecution, and in view of applicant's arguments thereof.

Examiner has provided the above new grounds of rejection of the claims under 35 U.S.C. 103(a) because there exists information submitted in an information disclosure statement filed on 3/20/2004, 6/22/2006 or 12/31/2007 before the close of prosecution pursuant to pursuant to 37 CFR 1.97(c) and MPEP 706.07(a) Final Rejection, When Proper on Second Action, and because each of the features of applicant's claimed invention is unpatentable or obvious over the prior art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

B US-6,264,561 B1, Saffari et al.

C US-6,346,048 B1, Ogawa et al.

D US-6,402,618 B1, Reed et al.

E US-6,508,709 B1, Karmarkar.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ARTHUR O. HALL whose telephone number is (571)270-1814. The examiner can normally be reached on Mon - Fri, 8:00am - 5:00 pm, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. O. H./
Examiner, Art Unit 3714

/Peter D. Vo/
Supervisory Patent Examiner, Art Unit 3714